



Jamaica

Country Reports on Human Rights Practices - [2001](#)

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Jamaica is a constitutional parliamentary democracy and a member of the Commonwealth of Nations. It gained independence in 1962. Two political parties have alternated in power since the first elections under universal adult suffrage in 1944; Prime Minister P.J. Patterson's People's National Party (PNP) won 50 of the 60 seats in Parliament in national elections in 1997 that were significantly less violent than previous general election campaigns. Intimidation of voters and party agents and restrictions on the free movement of voters was reported. The judiciary is generally independent but lacks adequate resources.

The Jamaica Constabulary Force (JCF) has primary responsibility for internal security, assisted by the Island Special Constabulary Force. The Jamaica Defense Force (JDF--army, air wing, and coast guard) is charged with national defense, marine narcotics interdiction, and JCF support. The JDF has no mandate to maintain law and order and no powers of arrest, unless so ordained by the Prime Minister. In July the Prime Minister gave the JDF powers to cordon and search. The Ministry of National Security oversees the JCF and the JDF. Civilian authorities generally maintain effective control of the security forces; however, some members of the security forces committed human rights abuses.

With a population of approximately 2.6 million, the economy is largely based on tourism and primary products (bauxite and alumina, sugar, bananas). The Government has promoted private investment to stimulate economic growth and modernization, pursuing in the process a sometimes-painful program of structural adjustment. In 2000 the trade-dependent economy grew by 0.8 percent for the first time in 5 years. In 2000 annual per capita income was \$2,630, but there is a large gap between the wealthy and the impoverished.

The Government generally respected the human rights of its citizens; however, there were serious problems in some areas. Some members of the security forces committed extrajudicial killings. Police and prison guards abused detainees and prisoners. Although the Government moved to investigate incidents of police abuses and punish some of those police involved, continued impunity for police who commit abuses remained a problem. Prison and jail conditions remained poor; overcrowding, brutality against detainees, and poor sanitary conditions were problems. Arbitrary arrest and detention were problems. The Government moved to release hundreds of persons declared mentally unfit to plead and then held without trial. The judicial system was overburdened, and lengthy delays in trials were common. Violence and discrimination against women remained problems. There were cases of societal discrimination against persons with disabilities and members of the Rastafarian religion. Violence against suspected homosexuals occurred. Child labor was a problem. Mob violence against and vigilante killings of those suspected of breaking the law remained a problem.

RESPECT FOR HUMAN RIGHTS

Section 1 Respect for the Integrity of the Person, Including Freedom From:

a. Arbitrary or Unlawful Deprivation of Life

There were at least eight reports of political killings during the year.

On September 7, unidentified gunmen invaded the Mountainview area of Kingston, a Jamaica Labour Party (JLP) affiliated community, and killed four persons, two of whom were JLP party activists. JLP murals and symbols on exterior walls were painted over with PNP slogans in red, one of the party's colors. Police theorized that the murder was a reprisal for the September 3 killing of a former JLP activist who had switched

allegiance to the PNP. Killings in the area soon escalated to a total of 14, although it was not clear that all were politically motivated. JLP and PNP officials cooperated to ease tensions in the community. There was no evidence to suggest that the violence was politically directed by the PNP hierarchy. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections (see Section 3).

The police frequently employed lethal force in apprehending criminal suspects. There were 163 deaths, including those of 15 police officers, during police encounters with criminals during the year. While allegations of "police murder" were frequent, the validity of many of the allegations was suspect. The country faces a critical crime situation with a homicide rate exceeding 40 per 100,000 persons. Well-armed gangs, trafficking in narcotics and guns, control many inner-city communities. The gangs are often better equipped than the police force and have conducted coordinated ambushes of joint security patrols. There have been targeted assaults against police officers and their families.

The JCF conducted both administrative and criminal investigations into all incidents involving fatal shootings by the police. In 1999 the Government established the Bureau of Special Investigations (BSI) within the JCF specifically to address police shootings. This group supplements the JCF Office of Professional Responsibility (OPR), which investigates police corruption and other misconduct, and the civilian Police Public Complaints Authority (PPCA), which oversees investigations of the other two bodies and can initiate its own investigations. The Government added 8 new investigators to the PPCA during the year, bringing the number to 12.

On January 26, a 50-year-old farmer was shot and killed outside his house in what police described as a shoot-out. It was reported the police were summoned to the man's house following a dispute with another farmer. The man's son said that he witnessed the police shoot his father while his hands were on his head. Residents subsequently blocked roads in protest, demanding an investigation. The PNP's council on human rights echoed the residents' call. In March the BSI concluded its investigation, and forwarded the case to the Director of Public Prosecutions (DPP).

On March 17, the police Crime Management Unit killed seven youths in a house in Braeton, St. Catherine parish. The police contended that they fired from outside the house only after being fired upon from inside. Residents claimed that the police entered the house and executed the young men while they begged for their lives. The April report of an independent pathologist who observed the post mortem showed that the youths had been killed at close range with bullets to the head. The Jamaican Bar Association, Jamaicans for Justice (see Section 4), and other organizations expressed serious concerns regarding the police version of events and called for a Commission of Inquiry. A BSI investigation was concluded in May and forwarded to the DPP. In July the DPP ruled that a coroner's inquest should be convened. Following preliminary hearings in September and November, a coroner's inquest was set for January 2002.

On June 3, JDF and JCF security forces patrolling West Kingston fired on members of a funeral procession, injuring a 26-year-old woman and killing a 44-year-old man. Following an internal inquiry, the JDF dismissed three soldiers for violating JDF rules of engagement. The Leader of the Opposition, who had criticized the JDF for failing to discipline alleged human rights offenders in the past, commended the JDF action. Firearms testing determined that police were not involved in the shooting.

On July 7, a joint police-army operation entered Tivoli Gardens, West Kingston, ostensibly to search for an arms cache following months of unrest in West Kingston. During the operation, 25 civilians, 1 policeman, and 1 soldier were killed in violence that lasted for several days. The police said that they came under heavy fire from gunmen. On July 9, the police detained 14 men in West Kingston and held them without charges for 3 weeks (see Section 1.d.). The next day, JDF soldiers detained two youths and reportedly forced them to lie on the pavement for 3 hours (see Section 1.c.).

The opposition leader, who is the parliamentarian for Tivoli Gardens, contended that the police operation was politically motivated in order to discredit him before national elections. He questioned whether police came under fire. Videotaped footage showed various gunmen with heavy weapons, while a tape broadcast on local television showed police firing indiscriminately from their positions without aiming their weapons. Following a call from the opposition, the Prime Minister established a Commission of Inquiry. The opposition charged that the commissioners were selected on the basis that they would issue "results...comfortable" for the Government and said that the Commission has no credibility with opposition supporters. BSI, the opposition, and the Public Defender's Office collected evidence to provide to the inquiry, which began on September 10. Police testified that they had come under heavy fire. Lawyers affiliated with the JLP boycotted the Commission after the Chairman ruled that they would be able to cross-examine witnesses only if select JLP politicians were mentioned by name. Numerous residents slated to testify did not appear, citing fear of retaliation. The opposition leader refused to comply with a subpoena to testify, on grounds that the Commission discriminated against him.

On October 23, police killed Andrew Stephens, also known as Andrew Phang, a JLP "don" (gang leader), reportedly in a shoot-out. In response, Grant's Pen community residents set up roadblocks in protest, but police cleared them by nightfall. According to the JCF, Phang died in a shoot-out, but local residents claimed that police handcuffed, beat, and then executed Phang. Neither account could be confirmed independently.

In September 2000, the authorities brought murder charges against a policewoman involved in the February 2000 shooting of a 20-year-old man in Farm district, Clarendon parish; the trial was still under way at year's end.

In May a coroner's inquest recommended that all the police involved in the December 1999 death of Patrick Genius should be held criminally responsible. The autopsy report of his death indicated that Genius had sustained two gunshots to the leg and three shots to the head, two of which were to the back of the head. Eyewitnesses to the killing claimed that Genius was shot with his hands up in the air after being detained by police officers traveling in an unmarked vehicle. By year's end, the DPP had not decided whether to file criminal charges.

In August 1999, nine soldiers and four policemen severely beat Michael Gayle, described as a paranoid schizophrenic, after he tried to pass through a roadblock near his home after curfew. Gayle died as the result of internal injuries; at the coroner's inquest, the jury returned a majority verdict that all police and military personnel on duty at the roadblock at that time should be charged with manslaughter. However, in March 2000, the DPP ruled that there was not sufficient evidence to bring charges against specific individuals for Gayle's death. The police opened a new investigation of this incident, completed it in April 2000, and resubmitted the results to the DPP. The police investigation did not uncover any new information and recommended that the case be closed. No criminal charges had been filed at year's end.

The authorities brought murder charges against a police officer for the death of a taxi driver killed when police fired on a taxi carrying passengers in Kitson town in June 1999. The trial continued at year's end.

Following a police investigation, in September 1999 the Public Prosecutor's office charged a police sergeant with murder for the April 1999 killing of an off-duty JDF soldier during island-wide protests. The case was still before the courts at year's end.

Four detainees died while in a police lockup during the year (see Section 1.c.).

On April 10, Amnesty International released an 83-page report that catalogs and analyzes credible allegations of human rights abuses by the police. The report chronicles alleged extrajudicial killings and use of excessive force, noting that official police accounts of "shoot-outs" initiated by those killed frequently were not supported by physical evidence. The report also highlighted allegations of abuse of suspects in police custody and accusations of inadequate investigation of and punishment for human rights abuses (see Section 1.c.).

The JCF has undertaken an initiative of "community policing" in certain areas to address the problem of long-standing antipathy between the security forces and many poor inner-city neighborhoods. For example, designated policemen walk beats and interact with members of the community on a daily basis. In April 2000, a prominent human rights activist assumed the newly created position of Human Rights Advisor to the Minister of National Security and Justice. She has been engaged in educating JCF trainees as well as junior officers to respect citizens' rights. The Jamaica Chamber of Commerce Inner-City Development Committee, in association with the Jamaica Social Investment Fund, distributed a Police Code of Conduct and a Charter of Citizen's Rights to police officers and citizens. The Police Federation conducts lectures to further educate policemen in citizens' rights. The Government is developing a human rights curriculum, with assistance from foreign governments and local human rights groups, to be instituted in schools nationwide. The JCF policy statement on the use of force incorporates U.N.-approved language on basic principles on the use of force and firearms by law enforcement officials.

Vigilantism, involving spontaneous mob executions in response to crime, continued to be a problem. There were nine known vigilante killings during the year, compared with eight in 2000. For example, on August 30, the body of a nude man with multiple stab wounds was found tied to a telephone pole in the Papine area of Kingston. Police theorized that he may have been killed for molesting a young girl. One resident alleged that the victim had molested more than one child in the community. Official investigations into such killings generally do not uncover information, since the persons and the community involved usually seek to intimidate potential witnesses. Human rights advocates contend that police do not consider such murders a priority.

b. Disappearance

There were no reports of politically motivated disappearances.

c. Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment

The law prohibits torture and other abuse of prisoners and detainees; however, reports of physical abuse of prisoners by guards continued, despite efforts by the Government to remove abusive guards and improve procedures. There were also credible reports that police abused detainees in lockups.

At 2:00 a.m. on July 26, a demolition team escorted by police destroyed the homes of 17 squatters who had built illegally on Roaring River government land near Steer Town, St. Ann parish. The Urban Development Corporation (UDC), an executive agency, ordered the operation; residents charged that they were not notified in advance. Some 200 demonstrators blocked parish roads in protest. After 5 hours, local police and the JCF Mobile Reserve Unit attempted to disperse the crowd, firing tear gas and live ammunition in the air. Although no one was hit by gunfire, a baby was taken to the hospital after inhaling tear gas. The police charged the crowd with batons. An opposition parliamentarian claimed that police assaulted her, although she had identified herself. Reportedly, some police did not wear badges and could not be identified, a breach of police regulations. Prime Minister Patterson criticized the predawn operation as "inhumane," and ordered the Office of Disaster Preparedness and Relief to provide shelter and relief to those ejected. Patterson also requested a report on the demolition operation and a review of procedures for ejecting squatters, which the UDC forwarded to his office in July. The OPR investigated accusations of police excesses. The BSI was preparing to submit the case to the DPP at year's end.

On July 10, JDF soldiers in a West Kingston operation (see Section 1.a.) detained two youths and reportedly forced them to lie on the pavement for 3 hours in the sun. The Public Defender's office sought compensation from the Government for the two men and forwarded their files to the Attorney General's office for action.

In June 2000, police fired on a minibus carrying 16 passengers when the driver failed to stop at a roadblock. Six persons were injured, including two students. Two policemen involved in the incident were removed from front-line duty and more training was mandated for police in the proper use of firearms. The police concluded an investigation into the incident and sent it to the DPP's office, which had not taken any action by year's end.

Prison conditions remained poor; overcrowding, inadequate diet, poor sanitary conditions, and insufficient medical care are typical. Unlike the previous year, there were no reports of prison riots. The majority of pretrial detainees are held in police lockups.

In May 2000, a riot at the St. Catherine's district prison led to reports of beatings by guards and JDF soldiers of at least 150 inmates. A one-person Commission of Inquiry was convened to investigate. In April the Commissioner released his report examining how contraband entered the prisons and whether excessive force was used to quell the riot. The Commissioner found that a planned riot occurred following cell searches. He found that excessive force was used, and that there were reprisal beatings of inmates. The Commissioner cited poor conditions and poor supervision, due to the fact that a number of officers were on forced leave and soldiers had been assigned to guard duty at the prisons, as root causes (see Section 6.a.). He recommended hiring new correctional officers, installing electronic surveillance, and introducing alternative methods of restraint. He also recommended that the Commissioner of Corrections be involved personally in day-to-day prison administration. The Corrections Department has implemented electronic surveillance and begun training new officers. Officers are being trained in alternative restraint methods in order to eliminate use of the baton. JDF soldiers involved in the incident were reassigned. One correctional officer was dismissed. No criminal charges were filed against any of the guards or soldiers.

In July the National Security Ministry completed a study of released prisoners to assist with rehabilitation programs. The Corrections Department administers work release programs and reached an agreement with local government to contract prisoners for public works projects.

Between July and August, four detainees who were held at the Hunt's Bay police station lockup in Portmore, St. Catherine parish, died under unexplained circumstances. The police first assumed that three of the detainees, who complained of abdominal cramps and died after being sent to a local hospital, suffered poisoning. Police instituted new procedures for supplying detainees food given by relatives. A post-mortem examination of the three showed no evidence of poison. The Ministry of Health ordered the lockup closed, and detainees were moved to other stations. The Ministry of Health and the OPR investigated. At year's end, the OPR was preparing to submit the case to the DPP.

The April Amnesty International report (see Section 1.a.) also documented conditions at the Hunt's Bay police station lockup. Severe overcrowding (more than three times capacity) impeded movement and necessitated

sleeping in shifts. Detainees were held in cells without lighting or sanitation and reported being denied access to medical care and adequate food. The report detailed frequent and credible allegations of police abuse in lockups, including severe beatings, mock executions, and rape. In October a new remand center opened in Bumpers Hall, St. Catherine parish, which is expected to ease overcrowding in lockups. The Government continues to provide police human rights training. The police are required to call a legal aid attorney when they detain a person (see Section 1.d.).

A separate prison for women--the Ft. Augusta Women's Prison--is housed in a 19th century fort. Sanitary conditions are poor, although far less so than in the men's prisons because there is less overcrowding. Ft. Augusta is also safer and does not have the violence found in the men's prisons. During the year, the Corrections Department added pay telephones for the prisoners' use.

The Constitution prohibits the incarceration of children in adult prisons; however, in practice some juveniles are held with adults. A 1999 Human Rights Watch report criticized the conditions in which juveniles are held. The organization noted that the Government responded quickly to remove some children from lockups. However, the report detailed many cases in which juveniles were detained improperly, not given access to legal representation, and held in adult lockups where they were victimized by adult prisoners. The Government charged Ministry of Health officers with finding appropriate "places of safety" for juveniles, and the new procedures are considered effective on the whole.

In July 2000, the Court of Appeals ruled that it was unconstitutional for juveniles to be held "at the Governor General's pleasure." This referred to a section of the Juveniles Act that provides that persons under the age of 18 who commit a capital crime must have their death sentence commuted; however, they could be held for an indeterminate time at the Governor General's discretion and were subject to incarceration in an adult prison. The Government appealed the ruling to the Privy Council in the United Kingdom, which had not ruled as of year's end.

In general, the Government allowed private groups, voluntary organizations, international human rights organizations, and the media to visit prisons and monitor prison conditions.

d. Arbitrary Arrest, Detention, or Exile

The Jamaica Constabulary Force Act permits the arrest of persons "reasonably suspected" of having committed a crime, and the police continued to arrest and detain citizens arbitrarily.

On July 9, police detained 14 men in West Kingston during a police operation (see Section 1.a.) and held them for 3 weeks without charge. The police complied with a resident magistrate's order that they be charged or released.

In 1999 police rounded up 52 men from the Grant's Pen area of Kingston after civil unrest erupted there. The men reportedly were fingerprinted, photographed, and then released without being charged. Under normal procedures, suspects only can be fingerprinted or photographed after conviction. Fourteen of the men brought a class action civil suit, citing civil rights violations. The case was settled and in July the plaintiffs received \$600 (J\$27,000) each.

In September 2000, a 3-person Commission of Inquiry presented its recommendations following its investigation of the detention and forced transport of at least 25 persons (many of whom were reportedly mentally ill) who were living on the streets in a Montego Bay business district. It recommended that the victims be granted \$500 (J\$20,000) per month for life. In response, the Government provided assistance to 18 persons. In January the DPP charged a policewoman in the abduction; two local government employees were charged in October 1999. Human rights advocates and the Police Federation widely criticized the action as "scapegoating." In June the DPP dropped all charges against the two public sector employees and the policewoman, citing a lack of evidence. Jamaicans for Justice, a human rights organization, claimed that three homeless men abducted that night still are missing; however, one was located during the year.

On March 27, a magistrate's court freed a 76-year-old man who had been held in prison for 29 years without trial because he had been judged unfit to plead due to mental illness. The man's original crime had carried a sentence of 3 years. Human rights advocates had expedited the case after revelations earlier in the year that some 300 to 500 persons were being held without trial as unfit to plead. The sole prison service psychiatrist said that reports he had filed declaring numerous prisoners fit never were acted upon. Following the public scrutiny, the Government acted swiftly to determine the number of such cases and bring them before the courts. In August the Commissioner of Corrections declared the number held was close to 100, a decrease from a high of 300 such prisoners. However, human rights advocates contend that number is closer to 500.

Human rights advocates blamed a breakdown in the prison bureaucracy, noting there was no apparent conscious effort to deny prisoners a right to trial. The Corrections Department contracted a psychiatric social worker to assist the prison psychiatrist.

The law requires police to present a detainee in court within 48 hours of arrest, but the authorities continued to detain suspects, especially those from poor neighborhoods, without bringing them before a judge within the prescribed period. The Government attributed this circumstance to an overburdened court system that cannot accommodate large numbers of such presentations in a timely manner (see Section 1.e.). Magistrates inquire at least once a week into the welfare of each person listed by the JCF as detained. There is a functioning bail system.

Foreign prisoners must pay for their own deportation when they have completed their sentences. If they cannot afford to pay, they are jailed until relatives or consulates can arrange for transportation.

The Constitution prohibits forced exile, and there were no reports that it occurred.

e. Denial of Fair Public Trial

The Constitution provides for an independent judiciary, which generally exists in practice. However, the judicial system is overburdened and operates with inadequate resources.

Three courts handle criminal matters at the trial level.

Resident magistrates try lesser offenses (misdemeanors). A Supreme Court judge tries felonies, except for felonies involving firearms, which are tried before a judge of the Gun Court. Defendants have the right to appeal a conviction in any of the three trial courts to the Court of Appeal, which is the highest court in the country. This appeal process results in frequent delays. The Constitution allows the Court of Appeal and the Parliament, as well as defendants in civil and criminal cases, and plaintiffs in civil cases, to refer cases to the Judicial Committee of the Privy Council in the United Kingdom as a final court of appeal.

The lack of sufficient staff and resources hinders due process. Trials in many cases are delayed for years, and other cases are dismissed because files cannot be located. A night court has had some success in reducing the backlog of cases.

The defendant's right to counsel is well established. Legal aid attorneys are available to defend the indigent, except those charged with certain offenses under the Money Laundering Act or Dangerous Drugs Act. The Public Defender may bring cases for individuals who have had their constitutional rights violated. The Public Defender's Office contracts private attorneys to represent clients. There are sufficient funds and legal aid attorneys to meet demand.

There were no reports of political prisoners.

f. Arbitrary Interference with Privacy, Family, Home, or Correspondence

The Constitution prohibits arbitrary intrusion by the State into the private life of an individual. The revised Jamaica Constabulary Force Act gives security personnel broad powers of search and seizure similar to those granted by the former Suppression of Crimes Act. The act allows search without a warrant of a person on board or disembarking a ship or boat, if a police officer has good reason to be suspicious. In practice, the police conducted searches without warrants. Unlike the previous year, there were no reported allegations of unauthorized wiretapping by the police.

In October 2000, the media reported allegations that a police unit wiretapped telephones without proper authorization in an investigation of police involvement in narcotics trafficking. Only the Prime Minister has the authority to order wiretaps. Following his investigation, in July the Director of Public Prosecutions ordered that the civilian head of the police unit and two telephone company employees be charged with interfering in the operation of a public utility.

Section 2 Respect for Civil Liberties, Including:

a. Freedom of Speech and Press

The Constitution provides for freedom of speech and of the press, and the Government generally respects these rights in practice.

The four largest newspapers, all privately owned, regularly report on alleged human rights abuses, particularly those involving the JCF. Foreign publications are widely available. There are 3 television stations and 13 radio stations. The Government's broadcasting commission has the right to regulate programming during emergencies. Foreign television transmissions are unregulated and widely available through satellite antennas and cable operators.

The Government does not restrict access to the Internet.

The Government does not restrict academic freedom.

b. Freedom of Peaceful Assembly and Association

The Constitution provides for freedom of assembly, and the Government generally respects this right in practice. There were numerous community protests against police actions during the year. A local human rights group organized various rallies, including one protesting the police shooting of seven youths (see Section 1.a.) and one to remember those still missing after a 1999 abduction of homeless persons in Montego Bay (see Section 1.d.). Security personnel generally acted with restraint during public demonstrations; however, in July local police and the JCF mobile reserve unit used tear gas against protesters, fired live ammunition into the air, and charged the crowd with batons during a protest against the removal of squatters in St. Ann parish (see Section 1.c.).

The Constitution provides for freedom of association, and the Government generally respects this right in practice.

c. Freedom of Religion

The Constitution provides for freedom of religion, and the Government generally respects this right in practice.

Members of the Rastafarian community have complained that law enforcement officials unfairly target them. However, it is not clear whether such complaints reflect discrimination on the basis of religious belief or due to the group's illegal use of marijuana, which is used as part of Rastafarian religious practice. Rastafarianism is not a recognized religion under the law. It is alleged that the police force Rastafarian detainees to cut their hair and surreptitiously give them food that they are forbidden to eat. In August a government-chartered independent commission examined decriminalization of marijuana and concluded with a recommendation for decriminalization of private personal use and as a religious sacrament. Rastafarians believe that the recommendation indicates increased tolerance of their religious practices. The Public Defender has identified gaining recognition for Rastafarianism as a religion as a priority for his office.

Rastafarians have no right to prison visits by Rastafarian clergy. On August 30, the Public Defender's Office filed a lawsuit against the Government on behalf of a Rastafarian prisoner who charged that he was denied the right to worship. The prisoner complained that he has no rights to the ministrations by clergy afforded to prisoners of other religions. He complained that he was denied use of the prison chapel for a Rastafarian baptism. The Commissioner of Corrections and Attorney General were named as respondents in the suit.

d. Freedom of Movement Within the Country, Foreign Travel, Emigration, and Repatriation

The Constitution provides for these rights, and the Government generally respects them in practice.

The Government provides asylum or refugee status in accordance with the provisions of the 1951 U.N. Convention Relating to the Status of Refugees and its 1967 Protocol. The Government cooperates with the office of the U.N. High Commissioner for Refugees and other humanitarian organizations in assisting refugees. The Government established a committee and formal procedures to review claims to refugee status. The Government granted one claim of asylum during the year. In November a group of 128 Haitians arrived in the country. According to immigration officials, 122 were judged to be economic migrants and were not considered for asylum. The other six Haitians remain in the country and their cases were pending at year's end. The committee denied all claims to refugee status by Cubans and Haitians during the year.

The issue of first asylum did not arise during the year.

There were no reports of the forced return of persons to a country where they feared persecution.

Section 3 Respect for Political Rights: The Right of Citizens to Change Their Government

The Constitution provides citizens with the right to change their government peacefully, and citizens exercise this right in periodic elections held on the basis of universal suffrage. All citizens age 18 and over have the right to vote by secret ballot. However, voters living in "garrison communities" in inner-city areas dominated by one of the two major political parties face substantial influence and pressure from politically connected gangs and young men hired by political parties, which impede the free exercise of their right to vote. Although the last two national elections were relatively calm, there is a history of political violence and killings in the period leading up to elections. The next national elections must be held by March 2003.

Two political parties--the PNP and the JLP--have alternated in power since the first elections under universal adult suffrage in 1944; a third party--the National Democratic Movement (NDM)--was established in 1995 and another party--the United People's Party (UPP)--was formed during the year. The PNP holds 46 of the 60 seats in Parliament; the opposition JLP holds 12. At year's end, two seats were vacant. On March 8, a by-election was held to fill the seat of a parliamentarian who resigned in November 2000. The election generally was free and fair, due to the efforts of the Electoral Office of Jamaica and the police. Supporters of all the parties were notably civil to each other throughout the day. However, there were allegations of voter intimidation in February prior to the election. A ruling party Councilor was audiotaped telling squatters that a vote for the opposition would "seriously risk" their chance at securing legal housing. The opposition party was forced to apologize when its supporters looted the convenience store of the campaign manager for a third party candidate.

In August an opposition Councilor in St. Mary parish charged that supporters of the ruling party were attempting to intimidate him following his allegations that the Government parliamentarian was building a constituency office without approval. The Councilor's car windshield was broken, and he later received a telephone threat. Local police were investigating at year's end.

During the 1997 general election campaign, both international and local observer groups concluded that, although the process was significantly less violent than recent election campaigns, problems persisted in the garrison communities. These problems included intimidation of party agents and voters of nondominant parties and restrictions on the movement of voters and election workers. Some areas are so dominated by one party that the polls simply closed early and vote counts were taken that resulted in 100 percent (or nearly 100 percent) of the votes being awarded to the dominant party. These problems persisted in the December 1997 election, despite the best efforts of the security forces, which were credited with controlling violence such as the beating of voters, and reducing election malpractice such as the theft of ballot boxes from polling places.

There were at least eight killings of politically connected persons during the year that produced allegations of political motivation (see Section 1.a.).

There are no legal restrictions on the participation of women in politics; however, the percentage of women in government and politics does not correspond to their percentage of the population. Women hold about 20 percent of all political offices and 30 percent of the senior civil service positions. One of the 16 cabinet members is a woman, as is the PNP General Secretary.

Section 4 Governmental Attitude Regarding International and Nongovernmental Investigation of Alleged Violations of Human Rights

A number of human rights groups operate without government restriction, investigating and publishing their findings on human rights cases. The Independent Jamaica Council for Human Rights is the country's only formal organization concerned with all aspects of human rights. Jamaicans for Justice is a human rights group created in 1999 in response to concerns about police impunity; the nongovernmental organization (NGO) focuses on the issues of extrajudicial killing and excessive use of force by the police. Jamaicans for Justice reported that undercover police regularly attend its meetings. Government officials generally are cooperative and responsive to the views of human rights organizations. However, on April 18, the Foreign Minister criticized an Amnesty International report on police killings as "one-sided and biased" (see Section 1.a.). He criticized the Amnesty Secretary General for "political messages" and accused the organization of trying to embarrass the Government. The Minister also criticized the public release of an Amnesty International-affiliated independent coroner's report on the seven youths killed at Braeton while the investigation was still under way (see Section 1.a.).

In April 2000, the Public Defender (Interim) Act established a Public Defender's Office to bring cases on behalf

of those who charge that their constitutional rights have been violated. The office incorporated the former post of Parliamentary Ombudsman, intended to provide citizens protection against abuses of state power and damage caused by unjustifiable administrative inaction, and expanded that role to include protection of citizens whose constitutional rights are infringed. The Public Defender also incorporated the previous post of Political Ombudsman to ensure that political parties adhere to a code of conduct. The office contracts private attorneys to bring suits against the Government on behalf of private citizens. The Defender sought compensation for two youths detained by soldiers in July (see Section 1.d.) and filed a lawsuit against the Government on behalf of a prisoner's right to worship (see Section 2.c.). The Public Defender investigated the conduct of the security forces in an early July West Kingston operation (see Section 1.a.). He also spoke out against attacks against homosexuals (see Section 5).

Section 5 Discrimination Based on Race, Sex, Religion, Disability, Language, or Social Status

The Constitution prohibits discrimination on grounds of race, place of origin, political opinions, color, creed, or sex. The Government generally enforces these prohibitions in practice, except for widespread discrimination on the basis of political opinion in the distribution of scarce governmental benefits, including employment, especially in the garrison communities (see Section 3). Individuals have committed acts of violence against suspected homosexuals; for example, in January fellow students beat four university students with wooden boards because they were suspected homosexuals. In November the Public Defender strongly criticized violence targeted against homosexuals.

Women

Social and cultural traditions perpetuate violence against women, including spousal abuse. Violence against women is widespread, but many women are reluctant to acknowledge or report abusive behavior, leading to wide variations in estimates of its extent. Reported incidents of rape and incest increased by 5 percent during the year. The JCF rape investigative and juvenile unit, which is headed by a female deputy superintendent, handles sex crimes. The Domestic Violence Act provides remedies for domestic violence, including restraining orders and other noncustodial sentencing. Breaching a restraining order is punishable by a fine of up to about \$200 (J\$10,000) and 6 months' imprisonment.

Unlike the previous year, there were no reports of sexual harassment of women by the police.

There is no legislation that addresses sexual harassment, and it is a problem.

The law prohibits prostitution; however, it is widespread, especially in tourist areas.

The Constitution and the Employment Act accord women full legal equality; however, in practice women suffer from discrimination in the workplace and often earn less than their male counterparts. The Bureau of Women's Affairs, reporting to the Minister of Tourism and Sport, oversees programs to protect the legal rights of women. These programs have had limited effect but have raised the awareness of problems affecting women. In 1996 the Government established a steering committee, charged with creating a Commission on Gender and Social Equity. In 1997 the committee forwarded its recommendations to Parliament, which accepted them; the Government still was discussing methods of implementation at year's end.

A number of active women's rights groups exist. They are concerned with a wide range of issues, including violence against women, political representation, employment, and the image of women presented in the media. Their effectiveness is mixed.

Children

The Government is committed to improving children's welfare. The Ministry of Education, Youth, and Culture is responsible for implementation of the Government's programs for children. The Educational Act stipulates that all children between 6 and 11 years of age must attend elementary school. However, due to economic circumstances, thousands of children are kept home to help with housework and avoid school fees.

A National Youth Development Center, established in 2000 as part of the Ministry of Education, Youth, and Culture, coordinates youth programs.

There is no societal pattern of abuse of children; however, a number of reported cases of sexual abuse and incest may point to a growing trend. There were reports of child prostitution.

The Juvenile Act addresses several areas related to the protection of children, including the prevention of cruelty, a prohibition on causing or allowing juvenile begging, the power to bring juveniles in need of care or protection before a juvenile court, the treatment of juvenile offenders, the regulation and supervision of children's homes, and restrictions on employment of juveniles. However, resource constraints have resulted in juveniles "in need of care or protection" being incarcerated in police lockups with adults (see Section I.c.).

During the year, the Government began a program to alleviate the problems of street children. The Possibilities Program includes a care center, a resocializing center, and a skills center.

Persons with Disabilities

No laws mandate accessibility for persons with disabilities, and they have encountered discrimination in employment and denial of access to schools. Several government agencies and NGO's provide services and employment to various groups of persons with disabilities. In 1998 the Prime Minister appointed the first blind member of the Senate. In November the Prime Minister appointed this senator to be Minister of State for Labor. The Government trains persons with disabilities for jobs within the information technology sector, and added two buses equipped with hydraulic lifts for wheelchairs during the year. In July 1999, an incident in which police rounded up a number of persons (many of whom reportedly were mentally ill) led to a national debate over the police action (see Section 1.d.). In January it was reported that numerous persons declared unfit to plead remained in prison without trial (see Section 1.d.).

Section 6 Worker Rights

a. The Right of Association

The law provides for the right to form or join a trade union, and unions function freely and independently of the Government. The Labor Relations and Industrial Disputes Act (LRIDA) defines worker rights. There is a spectrum of national unions, some of which are affiliated with political parties. Approximately 15 percent of the work force is unionized.

The LRIDA neither authorizes nor prohibits the right to strike, but strikes do occur. Striking workers can interrupt work without criminal liability but cannot be assured of keeping their jobs. Other than in the case of prison guards, there is no evidence of any workers losing their jobs over a strike action. Workers in 10 broad categories of "essential services" are prohibited from striking, a provision the International Labor Organization (ILO) repeatedly criticized as overly inclusive. There were no significant strikes during the year.

Beginning in December 1999, prison guards conducted an islandwide sick-out to protest the proposed reappointment of the Commissioner of Corrections. When 800 guards failed to comply with an order to return to work, the authorities placed them on forced leave at one-fourth pay in January 2000. In March 2000, the Government brought disciplinary charges against the guards and declared the work stoppage illegal. Approximately 100 were judged legitimately sick and allowed to return to work. In May 2000, hearings before the Public Services Commission began to examine the charges against the approximately 700 guards still on forced leave. During the year, the hearings proceeded on a case-by-case basis and 46 guards were dismissed. The University and Allied Workers Union has charged that the former National Security Minister attempted to negotiate with selected guards individually.

All major trade unions are affiliated with some major regional or international labor organizations.

b. The Right to Organize and Bargain Collectively

There were no reports of government interference with union organizing efforts during the year. Judicial and police authorities effectively enforce the LRIDA and other labor regulations. All parties are committed firmly to collective bargaining in contract negotiations, even in some nonunion settings. An independent Industrial Disputes Tribunal (IDT) hears cases where management and labor fail to reach agreement. Any cases not resolved by the IDT pass to the civil courts. The IDT generally handles 35 to 40 cases each year. Most are decided within 90 days, but some take longer to resolve due to the complexity of the dispute or delays requested by the parties. The LRIDA prohibits antiunion discrimination, and employees may not be fired solely for union membership. The authorities enforced this law effectively.

Collective bargaining is denied in a bargaining unit if no single union represents at least 40 percent of the workers in the unit in question, or when the union seeking recognition for collective bargaining purposes does not obtain 50 percent of the votes of the total number of workers (whether or not they are affiliated with the

union). The ILO's Committee of Experts (COE) considers that where there is no collective bargaining agreement and where a trade union does not obtain 50 percent of the votes of the total number of workers, that union should be able to negotiate at least on behalf of its own members. The COE requested the Government to take necessary measures to amend this legislation. The Government contends this would unduly lengthen negotiations.

Domestic labor laws apply equally to the "free zones" (export processing zones). However, there are no unionized companies in any of the 3 publicly owned zones, which employ 9,079 workers.

Organizers attribute this circumstance to resistance by foreign owners in the zones to organizing efforts, but attempts to organize plants within the zones continue. Company-controlled "workers' councils" handle grievance resolution at most free zone companies, but they do not negotiate wages and conditions with management. Management determines wages and benefits within the free zones; these are generally as good as or better than those in similar industries outside the zones. The Ministry of Labor is required to perform comprehensive factory inspections in the free zones once each year, and in practice it performs them at 6- to 9-month intervals. There were no reports of substandard or unsafe conditions in the free zone factories.

c. Prohibition of Forced or Compulsory Labor

The Constitution does not specifically prohibit forced or compulsory labor by either adults or children, but there were no reports that this practice occurs.

d. Status of Child Labor Practices and Minimum Age for

Employment

The Juvenile Act provides that children under the age of 12 shall not be employed except by parents or guardians, and that such employment may be only in domestic, agricultural, or horticultural work. However, enforcement is uneven. Children under the age of 12 are seen peddling goods and services on city streets. There are also reports that underage children are employed illegally in fishing communities and in prostitution (see Section 5).

A 1994 UNICEF report stated that 4.6 percent of children below the age of 16 worked to help support their households. In December 1999, the Minister of Labor, Welfare, and Sport gave a speech in which she stated that 23,000 children were engaged in child labor.

In September 2000, the Government signed a memorandum of understanding with the ILO in preparation to ratify ILO Convention 182 on the prohibition and elimination of the "worst forms" of child labor. The memorandum provides funding and technical assistance to assess the country's child labor situation. An ILO representative overseeing the project is assigned to the Labor Ministry and conducting various assessments of the problem. While the Constitution does not prohibit forced or bonded labor by children, such practices were not known to occur (see Section 6.c.).

e. Acceptable Conditions of Work

The minimum wage, raised from \$20 (J\$800) to \$30 (J\$1,200) per week in 1999, widely is considered to be inadequate to provide a decent standard of living for a worker and family. Most workers are paid more than the legal minimum, except in the tourism industry. Work over 40 hours per week or 8 hours per day must be compensated at overtime rates, a provision that is observed widely.

The Labor Ministry's Industrial Safety Division sets and enforces industrial health and safety standards, which are considered adequate. Public service staff reductions in the Ministries of Labor, Finance, National Security, and the Public Service have contributed to the difficulties in enforcing workplace regulations.

Industrial accident rates, particularly in the bauxite and alumina industry, remained low. The law provides workers with the right to remove themselves from dangerous work situations without jeopardy to their continued employment if they are trade union members or covered by the Factories Act. The law does not specifically protect other categories of workers in those circumstances.

f. Trafficking in Persons

The law does not prohibit specifically trafficking in persons; however, there are laws against assault and fraud, and other laws establish various immigration and customs regulations. There were no confirmed reports that persons were trafficked to, from, or within the country.